

REMARKS

Amendment of the Claims and Claim Status

Claims 1-83 are pending in this application. Of these, Claims 22-25, 27-33, 35-39, 43-47, and 49-74 are withdrawn from consideration and Claims 1-21, 26, 34, 40-42, 48, and 75-83 are under consideration.

Provisional Double Patenting Rejection

Claims 1-21, 26, 34, 40-42, 48, and 75-83 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1-46 of application no. 10/857,540 and claims 1-75 of application no. 10/954,691. As application 10/857,540 involves “wireless communication between stations of differing protocols,” Applicants believe said rejection was meant to be directed to copending application no. 10/957,540 and shall respond to the rejection based on the foregoing assumption.

Applicants respectfully submit that the double patenting issue is not ripe since the two copending applications have neither been examined nor even docketed for examination. In light of these circumstances, no terminal disclaimer is necessary at this point. According to MPEP 804 I.B., “the provisional double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application *unless* that provisional double patenting rejection is the only rejection remaining in at least one of the applications.” The foregoing rule is applicable here as the provisional double patenting rejection is the only rejection remaining. There is no statutory, caselaw, or rule bases for requiring the filing of a terminal disclaimer under the present circumstances. As such, withdrawal of the rejection is respectfully requested.

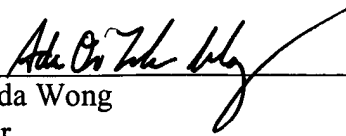
In view of the foregoing, it is believed that all claims now pending in this Application are in condition for allowance. Should the Examiner have any continuing objections, the Applicant respectfully asks the Examiner to contact the undersigned at 415-442-1490 (direct line) in order to expedite allowance of the case. Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius, LLP Deposit Account No. 50-0310 (matter no. 061136-0011-US).

Brian S. APPEL et al.
Application No. 10/717,076
Page 3

Respectfully submitted,

Date: April 5, 2006

By:


Ada Wong

55,740

(Reg. No.)

for

Thomas D. Kohler

Reg. No. 32,797

MORGAN, LEWIS &

BOCKIUS LLP

2 Palo Alto Square

3000 El Camino Real, Suite

700

Palo Alto, CA 94306

(415) 442-1340